

1 Carol A. Smith (In Pro Se)  
2 14341 SW Teal Blvd 77B  
3 Beaverton, Oregon 97008  
4 PH: (503) 317-0006  
Email: adriannes7@yahoo.com

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7 **UNITED STATES DISTRICT COURT**  
8 **FOR THE DISTRICT OF OREGON**

9

10 CAROL ADRIANNE SMITH  
11 Plaintiff,  
12 v.  
13 PORTLAND COMMUNITY  
14 COLLEGE (PCC)  
15 Defendant.

16 Case No.17-CV-01069-PK  
Honorable Judge Papak

VOLUNTARY DISMISSAL REQUEST  
WITHOUT PREJUDICE PURSUANT TO

Federal Rules of Civil Procedure 41(1)(A)(i)  
Federal Rules of Civil Procedure 42(a)(2)

Date: August 3, 2017

17 Petitioner, Carol A. SMITH, In Pro Se, presents as follows:

18 **PLAINTIFF SMITH'S NOTICE OF VOLUNTARY DISMISSAL WITHOUT**  
19 **PREJUDICE**

20 Pursuant to Federal Rules of Civil Procedure 41(1)(A)(i)

21 **Rule 41 – Dismissal of Actions**

22 **(a) Voluntary Dismissal without Prejudice.**

23 **(1) By the Plaintiff.**

24 (A) *Without a Court Order.* Subject to any applicable federal statute, the plaintiff may dismiss an  
action without a court order by filing:

25 (i) a notice of dismissal before the opposing party serves either an answer or a motion for  
26 summary judgment

27 Plaintiff SMITH hereby respectfully gives notice pursuant to Federal Rules of Civil Procedure  
(F.R.C.P) 41(1)(A)(i) of a voluntarily dismissal without prejudice against the defendants. The  
28 defendants, at Portland Community College have not been served by Plaintiff SMITH in any

1 capacity regarding Case No.17-CV-01069 through the the United States Marshal or by anyone  
2 else.  
3

4 Specifically, F.R.C.P. 41(a)(1)(A)(i) sets out that a Plaintiff may voluntarily dismiss its claims  
5 without prejudice and without a Court Order by notice at any time prior to the Defendants filing  
6 an answer or moving for summary judgment. As of the filing of this Notice, no Defendant has  
7 filed an Answer in this action, nor has any defendant been served by Plaintiff SMITH.  
8

9 Alternatively, Plaintiff requests voluntary dismissal without prejudice pursuant to Rule 42(a)(2)  
10 of the Federal Rules of Civil Procedure. Rule 42(a)(2) permits voluntary dismissal without  
11 prejudice “by court order, on terms that the court considers proper.” Voluntary dismissal without  
12 prejudice pursuant to Rule 42(a)(2) “should be granted unless a defendant would suffer clear  
13 legal prejudice, other than the prospect of a subsequent lawsuit as a result.” See U.S. v. Maloney,  
14 2007 WL 1424228, \*2 (S.Dist.Fla. 2007)(Marra, J.)(quoting Ponteberg v. Boston Scientific  
15 Corp., 252 F.3d 1253, 1255 (11th Cir. 2001)).  
16

17 Granting the Plaintiff’s request for voluntary dismissal will not cause any prejudice to the  
18 Defendants. Therefore, voluntary dismissal without prejudice is justified in this action.  
19

20 Dated: August 3, 2017  
21

22 Respectfully submitted,  
23

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25 By: Carol Adrienne Smith, M.S. (Pro Se)  
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Beaverton, OR 97008  
503-317-0006